

HOUSE BILL 1735
By Windle

AN ACT to amend Tennessee Code Annotated, Title 33; Title 50;
Title 63 and Title 68, relative to obtaining medical records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-204(a), is amended by deleting subdivisions (1) and (2) and by substituting instead the following:

(1) The employer or the employer's agent shall furnish free of charge to the employee such medical and surgical treatment, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus, including prescription eyeglasses and eyewear, such nursing services or psychological services as ordered by the attending physician, and hospitalization, including such dental work made reasonably necessary by accident as herein defined, as may be reasonably required; provided, that within ten (10) working days of a request after examination or treatment of an employee, a physician or a hospital shall, upon request, furnish to the employer or to the employer's insurer and to the employee or the employee's attorney a complete medical report at a charge not to exceed ten dollars (\$10.00) for reports forty (40) pages or less in length and twenty-five cents (25¢) per page for each page copied after the first forty (40) pages

and actual mailing costs, as to the claimed injury, its effect upon the employee, the medical treatment prescribed, an estimate of the duration of required hospitalization, if any, and an itemized statement of charges for medical services to date. If an employer or an insurer has not previously requested copies of such records from a physician or hospital, then an attorney for an employer may request such records under this subdivision.

(2) (A) Any hospital in which the employee may have been hospitalized shall, within ten (10) working days of a request, also release its medical records to both the employee and the employer upon the request of either. The set of records for the employee may be released to either the employee or to the employee's attorney, and the set of records for the employer may be released to either the employer, the insurer, a claims representative, or an attorney representing the employer or the insurer. Only the records pertaining to the current admission shall be released under this subdivision (a)(2)(A).

(B) If requested in writing by the employer or insurer, or by the employee or the employee's attorney, the physician and hospital shall also furnish subsequent prognosis reports, medical records, and statements of charges at intervals of not less than sixty (60) days. No such relevant information developed in connection with treatment or examination for which compensation is sought by the employee shall be considered a privileged communication. The employee's consent shall not be required for the furnishing of such reports or records, and no physician or hospital furnishing such report or record shall incur any liability as a result thereof.

(C) Failure to provide the requested records pursuant to subdivisions (1) or (2) of this subsection within ten (10) working days of receiving the request shall result in the records being provided free of charge. In no event shall the records be provided later than within thirty (30) days of the original request.

SECTION 2. Tennessee Code Annotated, Section 63-2-102(a), is amended by deleting the second sentence of the subsection and by substituting instead the following:

Such reasonable costs shall not exceed ten dollars (\$10.00) for reports forty (40) pages or less in length and twenty-five cents (25¢) per page for each page copied after the first twenty (20) pages and actual mailing costs.

SECTION 3. Tennessee Code Annotated, Section 63-2-101(a)(2), is amended by adding the following language at the end of the subdivision:

Failure to provide the requested records within ten (10) working days of receiving the request shall also result in the records being provided free of charge. In no event shall the records be provided later than within thirty (30) days of the original request.

SECTION 4. Tennessee Code Annotated, Section 63-2-102, is amended by adding the following as a new subsection:

(e) Notwithstanding the provisions of subsection (a), a health care provider may not impose a charge on an indigent person for furnishing to such person a health record or part thereof concerning such patient, such patient's attorney or authorized representative, if the record or part thereof is necessary for the purpose of supporting a claim or appeal under any provision of the Social Security Act, and a request for the record or part thereof is accompanied by a copy of a recent application seeking benefits under the Social Security Act or a copy of a recent decision denying such benefits.

Patients being represented by organizations whose purpose is to provide legal assistance to the indigent or represented by attorneys with an affiliated pro bono program shall be presumed indigent. A health care provider may demand reasonable proof of indigency from any other patient. A health care provider shall furnish a health record requested pursuant to this section within ten (10) working days of the request.

SECTION 4. Tennessee Code Annotated, Section 68-11-304(a)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(2)(A)

(i) The party requesting the patient's records shall be responsible for the reasonable costs of copying and mailing the patient's records.

(ii) The charges to a patient or a lawyer authorized by the patient to review the patient's records shall not exceed the reasonable costs for handling, copying, and the actual costs of mailing the records. The reasonable costs described herein shall not include any costs involved with the maintenance and storage of the records, nor shall it include any costs which may be from or associated with providing the records to any party other than a patient or a lawyer authorized by the patient to review the patient's records.

(iii) The charges for medical records to a patient or a lawyer authorized by the patient to review the patient's records which are equal or less than the following shall be presumed to be reasonable: ten dollars (\$10.00) for reports forty (40) pages or less in length and twenty-five cents (25¢) per page for each page copied after the first twenty (20) pages and actual mailing costs.

(iv) In workers' compensation cases, a request for medical records shall include a medical or anatomical impairment rating if such record is available. Requests for such records shall be subject to the limits on charges established by this section. Special additional or separate charges for including impairment ratings are not permitted.

(B) Notwithstanding the provisions of subdivision (a)(2)(A), a hospital may not impose a charge on an indigent person for furnishing to such person a health record or part thereof concerning such patient, such patient's attorney or authorized representative, if the record or part thereof is necessary for the purpose of supporting a claim or appeal under any provision of the Social Security Act, and a request for the record or part thereof is accompanied by a copy of a recent application seeking benefits

under the Social Security Act or a copy of a recent decision denying such benefits.

Patients being represented by organizations whose purpose is to provide legal assistance to the indigent or represented by attorneys with an affiliated pro bono program shall be presumed indigent. A hospital may demand reasonable proof of indigency from any other patient. A hospital shall furnish a health record requested pursuant to this section within ten (10) working days of the request.

(C) Failure to provide the requested records within ten (10) working days of receiving the request shall result in the records being provided free of charge. In no event shall the records be provided later than within thirty (30) days of the original request.

SECTION 5. Tennessee Code Annotated, Section 68-11-302(4), is amended by adding the following language immediately at the end of the item:

provided, however, "Hospital" also includes any hospital or institution, operated by the department of mental health and developmental disabilities, specially intended for use in the diagnosis, care, and treatment of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions;

SECTION 6. This act shall take effect July 1, 2003, the public welfare requiring it.